

Bell Atlantic Network Services, Inc.  
1133 Twentieth Street, N.W.  
Suite 800  
Washington, DC 20036  
202 392-1187

Gerald Asch  
Director/FCC Relations

February 22, 1996

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street NW - Room 222  
Washington, D.C. 20554

Re: **Ex Parte Meeting**  
**CC Docket 95-115**

RECEIVED

FEB 22 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Dear Mr. Caton:

On February 15, 1996 Pat Beadling, Paul Thielemann, Tom Moynihan and the undersign representing Bell Atlantic met with Andrew Mulitz, Alexander Belinfante, Duffy Knoll, Larry Povich and Pam Szymczak of the FCC Accounting and Audits Division and the Industry Analysis Division regarding the above referenced docket. An Ex Parte for that meeting was filed on February 15, 1996.

At the February 15 meeting, Bell Atlantic was asked to provide documents for Bell Atlantic-Pennsylvania, Inc. Chapter 64. Enclosed are those documents.

An original and a copy of this Ex Parte meeting notice are being filed in the office of the Secretary on February 22, 1996. Please include it in the public record of this proceeding.

Respectfully submitted,



Gerald Asch  
Director - FCC Relations

DOCKET FILE COPY ORIGINAL

cc: Mr. Mulitz  
Mr. Belinfante  
Mr. Knoll  
Mr. Povich  
Ms. Szymczak

No. of Copies rec'd 0+1  
List ABCDE

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**DAVID J. BERNECKER**  
**V.**  
**BELL ATLANTIC-PENNSYLVANIA, INC.**

**PUBLIC MEETING**  
**NOVEMBER 9, 1995**  
**NOV-95-ALJ-159**  
**DOCKET NO. F-00231398**

**MOTION OF COMMISSIONER ROBERT K. BLOOM**

Before us for consideration is the appeal of David J. Bernecker ("Complainant") to the decision rendered by the Commission's Bureau of Consumer Services ("BCS"). The Complainant contends that he should not be required to pay the full amount of toll and non-basic arrearages billed to him by Bell Atlantic-Pennsylvania, Inc. ("Bell") due to unauthorized toll calls. He avers that Bell should have set up a block allowing only him to make long distance calls from his phone. Finally, he contends that he is not benefitting from non-basic installed facilities. The BCS decision required a lump sum payment of \$1,769.12, toll blocking and established a payment arrangement of current bills plus \$25 towards the arrearage.

Administrative Law Judge Allison Turner recommends that since the Complainant did not appear at the the hearing, the complaint should be dismissed and the BCS decision should be reinstated.

The Initial Decision discusses the increase in arrearage on Complainant's account since the filing of the complaint. In January 1995, the Complainant owed \$1,985.05. In October 1995 the balance had increased to \$4,224.14. The ALJ reasoned inter alia that the reason that the arrearage increased dramatically was that Bell took no collection activity during that time.

52 Pa. Code §64.122 states:

Unless expressly and specifically authorized by the Commission, service may not be terminated if both of the following exists:

- (1) A notice of dispute has been filed and is unresolved and if the subject matter of the dispute forms the grounds for termination.
- (2) The customer is making a good faith effort to pay or make payment arrangements to pay all undisputed bills and undisputed portions of disputed bills.

52 Pa. Code §64.133 states:

Except as otherwise provided in this chapter, where a dispute is properly registered in accordance with this subchapter, suspension or termination is prohibited until resolution of the dispute; however, the disputing party shall pay all undisputed portions of the bill.

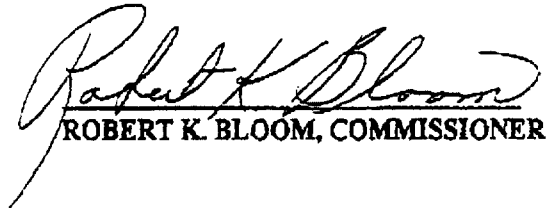
In the present proceeding, the Complainant had not made *any effort to pay the undisputed amounts* since the filing of his complaint. In fact, his usage dramatically increased. Clearly any protection against termination afforded by law does not apply to the Complainant

Stays on the LEC's ability to suspend or terminate service should be limited to halting adverse actions related to the amounts specifically disputed in the customer's informal and/or formal complaint. In cases where the root cause of the complaint is inability or unwillingness to pay, the disputed amount will be the amount overdue on the customers account at the time of filing the complaint. In all cases, **the customer is responsible for paying current charges** until a decision either interim or final on their formal or informal complaint is rendered. In cases where the customer fails to pay current charges, the LEC is encouraged to pursue appropriate Chapter 64 collection action including suspension or termination.

THEREFORE, I MOVE THAT:

1. The Initial Decision is modified consistent with this Order.
2. OSA shall prepare the appropriate Order consistent with this Motion.

11/9/95  
DATE

  
ROBERT K. BLOOM, COMMISSIONER

PENNSYLVANIA PUBLIC UTILITY COMMISSION  
Harrisburg, Pennsylvania 17105-3265

DAVID J. BERNECKER  
v.  
BELL ATLANTIC-PENNSYLVANIA, INC.

PUBLIC MEETING-  
NOVEMBER 9, 1995  
NOV-95-ALJ-159\*REVISED  
DOCKET NO. F-231298

STATEMENT OF COMMISSIONER DAVID W. ROLKA

The rules promulgated by this agency do not prevent utilities from pursuing collection efforts during the pendency of a complaint. This is not a controversial statement. This matter was discussed at length with Bell officials during our meeting after the PUC officially acted on the Rosenblum case. In fact, the way in which presiding Judge Turner handled this case provides a case in point. When the originally scheduled hearing on the Complaint was continued at the Complainant's request, Judge Turner issued an interim Order on May 17, 1995 directing that the underlying BCS Order (which was the subject of the Formal Complaint) should be enforced. When Mr. Bernecker failed to comply with the BCS decision, the Initial Decision reports that Bell promptly suspended toll service on May 23, 1995. I am pleased that this procedure was utilized because it is reflective of the way in which our system ought to operate. The Office of Administrative Law Judge has been aware for some time of my concern that interim payment orders ought to be issued so that further arrearages are not allowed to accumulate while cases are processed within our agency.

I support Commissioner Bloom's Motion because it will preserve the ALJs' present flexibility to take into account any unique circumstances in particular cases that may warrant the imposition of a different payment obligation during the pendency of a case.

Nov 9 1995  
DATED

David W. Rolka  
DAVID W. ROLKA, COMMISSIONER

**PENNSYLVANIA PUBLIC UTILITY COMMISSION**  
**Harrisburg, Pennsylvania 17105-3265**

**BETTY CLAYPOOL**  
**V.**  
**T. W. PHILLIPS GAS & OIL COMPANY**

**PUBLIC MEETING**  
**NOVEMBER 9, 1995**  
**JUL-95-ALJ-106\***  
**DOCKET NO. Z-00248730**

**JOINT MOTION OF COMMISSIONER S JOHN HANGER AND ROBERT K. BLOOM**

Before us for consideration is the Recommended Decision of Special Agent Jonathan Zorach in which he recommends that the monthly budget bill be increased over that recommended by the Bureau of Consumer Services' Decision. ("BCS.")

The pertinent facts are as follows. Betty Claypool ("Complainant") filed a complaint with BCS alleging an inability to pay the budget bill of \$72 due to T.W. Phillips ("Respondent"). Based on her financial situation at the time and taking into consideration prospective LIHEAP grants, BCS on September 21, 1994, lowered the monthly budget amount to \$39. Respondent appealed. The Special Agent found that based on Complainant's increased usage since the BCS Decision that the budget bill should be set at \$82. Based on Complainant's increase in income, she was also ordered to pay \$15 toward the arrearage of approximately \$600 which existed as of March 1995. At the time of the hearing, Complainant had made no payments in compliance with the BCS Decision. The Complainant last paid \$45 which represents the only payment made between September 1994 and March 1995.

The proceeding raises several issues that need to be clarified by the Commission. First, in this case, the Complainant originated the issue of ability to pay and has the burden of proof. In fact, inability to pay cases, the burden of proof regarding "ability to pay" always lies with the customer/complainant. This remains true whether the case is being litigated as an informal complaint filed by the customer or as a Formal Complaint on appeal filed by the utility. However, in this case, it was the utility that first raised the issue asserting the proposition that the Commission policy on LIHEAP budget billing is contrary to law or is not proper policy. Under such circumstances, it would be absurd to impose the burden of proof concerning a legal and policy issue upon a customer who did not raise the issue and who probably has little knowledge of the issue itself. This allocation of burden of proof on the party pressing the issue, as well as the burden of persuasion, is not unique to the PUC or dependent on whether the Formal Proceeding is considered an appeal or *de novo*. It is a basic application of established legal principles analogous to a claim in new matter or a counter-complaint or a cross-appeal.

A second procedural issue raised by this case that should be clarified is that our regulations identify a Formal Complaint as both an appeal from the informal complaint process of BCS and indicate that it is to be conducted as a *de novo* hearing. This confusion can be unscrambled with a clear separation of the underlying concepts and a set of guidelines for conduct of the hearings. An

"appeal" indicates a procedural step following a prior decision with which one disagrees. Whether that proceeding is de novo is purely an evidentiary matter. Just because an issue is raised for the first time on appeal does not mean that the presentation of evidence cannot be addressed de novo.

The BCS Decision is the product of an informal process. As such it would not be appropriate to take judicial notice of the record in the informal proceedings. However, the parties can certainly stipulate as to any income or expense items in the BCS Decision. In fact, this approach is encouraged. This will shorten hearings and expedite the process. In sum, as a de novo hearing, the party with the burden of proof on a particular issue must ensure that the record in the Formal Complaint contains substantial evidence to support its desired outcome.

A third important procedural issue raised by this case is the obligation of the customer to continue to pay undisputed bills during the complaint proceedings.

Our regulations require that customers continue to pay current bills and/or all undisputed amounts during the pendency of a complaint. See, 52 Pa. Code Sec. 56.174(3), 56.181.<sup>1</sup> Certainly it is inappropriate to permit termination of service concerning a matter then in dispute before the Commission until a final Commission determination is made. The existing regulations accurately reflect an appropriate balance that items in dispute are put in abeyance until a determination is made *while all other payment obligations continue unchanged*. However, in practice, some complainants decrease or cease entirely to make their payments on undisputed portions of bills during the pendency of disputes. This practice cannot be permitted to continue.

It is not always easy to determine the amount that is not in dispute and which therefore must be paid while the dispute is pending. The parties and the presiding ALJ should seek to clarify such matters, and the ALJ should issue interim orders mandating the level of payment which must be maintained during the dispute proceedings as appropriate. Routine implementation of this approach will eliminate confusion concerning payment obligations and reduce the accumulation of arrearages during dispute resolution. In addition, BCS should make an extra effort to communicate the payment obligations in the event that an appeal is filed.

The record must contain income and expenses and the presiding officer must rule on the credibility of financial status when no documentation is provided. The record should always contain the amount of arrearage at the time of the hearing<sup>2</sup>, the specifics of the payment arrangement under appeal and whether there has been compliance with the BCS Decision. Where there has not been compliance with the BCS Decision, the presiding officer should inquire as to why. This will provide the Commission with information to ascertain if good cause exists to excuse compliance with the BCS Decision, or whether a lump sum payment covering the missed payments should be ordered.

---

<sup>1</sup>These provisions apply to electric, gas, steam heat, sewer and water service subject to Chapter 56. Similar provisions apply to telephone service pursuant to Chapter 64. See, 52 Pa. Code 64.171.

<sup>2</sup>The utility company should always introduce the Complainant's billing history into the record.

Addressing the record evidence in this case, the Commission needs to resolve both the issue of payments missed during this dispute and the payments which must be made from this point forward. While the BCS Decision appears to have been correct when made, factual events have occurred which render the LIHEAP budget billing issue moot<sup>3</sup>, although the BCS result must still be modified. Since the findings of fact in the BCS Decision were made, Complainant's household income has increased by at least \$874 monthly because her boyfriend now resides in her household,<sup>4</sup> and she has begun to receive \$50 monthly in child support payments. This fundamental change in circumstances alters the ability to pay determination considerably, making it clear that Complainant can afford to pay the entire budget bill as well as a reasonable amount towards her arrearage.

The record in the Formal Complaint proceeding indicates expenses of \$865 monthly and income of at least \$1190 for the five person household. With budget bills now \$82, Complainant should be able to pay more than the \$15 monthly towards the \$577 arrearage as indicated in the Recommended Decision. Complainant should be required to pay budget bill of \$82 plus \$20 monthly towards the arrearage.

Complainant in this case cannot be excused for failing to pay her undisputed bills during the pendency of this dispute. The Complainant testified that she did not comply with the BCS Decision because her mother told her that once you appeal the Decision, you can stop making payments and your service will not be terminated. This is incorrect. The Complainant is still responsible for the monthly budget bill of \$39. Therefore, the Complainant must make a lump sum payment of \$507.00. This is calculated as 13 months x \$39 = \$507. Customers must realize that just because an inability to pay case has been filed, there is still the responsibility to pay undisputed amounts. To hold otherwise simply exacerbates the arrearage and further delays (and jeopardizes) recovery by the utility.

**THEREFORE, WE MOVE THAT:**

1. The Recommended Decision is affirmed in part and reversed, in part, as indicated in this Motion; and
2. Complainant shall pay budget bills of \$82 plus \$20 monthly towards arrearage; and
3. Complainant shall make a lump sum payment of \$507.00 within 60 days of the date of entry of this Order which represents the missed payments ordered in the BCS Decision.
4. The procedural guidelines indicated in this Motion, shall be effective for all new

---

<sup>3</sup>See, Leslie Smith v Columbia Gas, Docket C-00946118, entered August 18, 1995.

<sup>4</sup>The Recommended Decision indicates that the boyfriend was receiving \$824 monthly in unemployment compensation at the time of the hearing on March 23, 1995. He expected to earn approximately \$925 monthly upon returning to work about one week thereafter.

cases filed as of the date of entry of the final Order in this proceeding; and

5. The Office of Special Assistants shall prepare the appropriate Order consistent with this Motion.

11/8/95  
DATED

Robert K. Bloom  
ROBERT K. BLOOM, COMMISSIONER

November 8, 1995  
DATED

John Hanger  
JOHN HANGER, COMMISSIONER





PENNSYLVANIA  
TELEPHONE  
ASSOCIATION

FRANCIS C. MANGAN  
President

30 North Third Street, Suite 300, P.O. Box 1169, Harrisburg, PA 17108-1169

717/238-8311

FAX: 717/238-5352

August 2, 1995

RECEIVED  
95 AUG -2 PM 2:59  
PA. P.U.C. DIV.  
INFO. CONTROL DIV.

John G. Alford, Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Advanced Notice of Proposed Rulemaking to Review and Rescind all  
Obsolete and Excessive Regulations at Docket No. L-950103

Dear Secretary Alford:

Enclosed please find an original and ten (10) copies of the Pennsylvania Telephone Association's comments on the above subject as published in the June 3, 1995 Pennsylvania Bulletin.

If there are any questions concerning this matter, please feel free to contact our office.

Respectfully,

Francis C. Mangan  
President

BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION

Advanced Notice Of Proposed	:	
Rulemaking To Review And Rescind	:	Docket No. L-950103
All Obsolete And Excessive	:	
Regulations	:	

COMMENTS OF THE PENNSYLVANIA TELEPHONE ASSOCIATION

The Pennsylvania Telephone Association (PTA), on behalf of its member companies, welcomes this opportunity to present comments on Commission regulations which should be eliminated or amended because they are obsolete, cumbersome or otherwise unreasonable.

The PTA also commends the Commission's initiation of this review of its regulations. Such a review is especially appropriate with respect to regulations affecting local exchange telecommunications companies in light of the advent of competition in that industry, and the several competing policies the Commission and the industry must implement under Chapter 30 of the Public Utility Code.<sup>1</sup>

Set forth below are the PTA's general comments followed by its specific comments. Observing the constraints imposed in the Order initiating this docket, the PTA has limited its specific comments to ten sections or groups of sections in the residential

---

<sup>1</sup>These include maintenance of universal telecommunications service at affordable rates; continued provision of local exchange service at reasonable rates and on a nondiscriminatory basis; accelerated, balanced deployment of a state-of-the-art broadband network throughout the Commonwealth; and development of the competitive supply of telecommunications services where there is market demand. 66 Pa. C.S.A. §3001.

telephone service standards and billing practices regulations and in the general telephone service regulations set forth in 52 Pa. Code Chapters 64 and 63, respectively. These sections are the ones most urgently in need of change.

#### **General Comments**

In facilitating the transition to full local exchange competition where market forces will fully supplant the need for any continued regulation, the Commission must address a challenging task in the rulemaking arena. That task is to maintain just and reasonable rates and high-quality universal service while ensuring that the regulations it promulgates for that purpose do not create inefficiencies or other counterproductive effects, or impede full and fair competition.

To accomplish its task, the Commission must ensure that its regulations apply to all local exchange service providers equally. Only if all providers are held to the same standard will customers be protected and will full and fair competition result.

Moreover, to ensure consistent treatment of all competitors and to eliminate uncertainty with respect to regulatory obligations, regulations must be both clear and applied as they are written. To this end, formal procedures must govern the promulgation and modification of regulations. The Commission should not permit ad hoc "interpretations" of existing regulations or promulgation of new requirements through policy statements and secretarial letters to replace regulations or the rulemaking process.

### Specific Comments

Several years of experience in applying the Chapter 64 and 63 regulations has uncovered a number of fault lines, or structural cracks, in the edifice of telephone service regulation. Several Chapter 64 and 63 regulations, while well-intentioned when implemented, simply have not worked out well in practice, or over time. Some impose unreasonable cost or other burdens on local exchange companies (LECs) to achieve only limited or illusory benefits for customers. Others subject LECs to the "double whammy" of undue burden and irritating, rather than satisfying, customers. Others provide a vehicle for certain customers to continue to avoid paying their bills without penalty, to the detriment of the vast body of customers who pay their bills on time. Still others no longer make sense in the current competitive environment where customers have the choice of other service providers.

The Chapter 64 and 63 sections which the PTA urges be changed as soon as possible are identified in Parts I through X below, with explanations of the reasons changes are needed. Proposed amendatory language is set forth in corresponding Parts I through X of Attachment A hereto. Because of the interrelationships between Chapter 64 sections, modification of certain Chapter 64 sections addressed below also will require conforming changes to other sections to maintain internal consistency. These additional conforming changes are set forth in proposed amendatory language or otherwise addressed following the proposed amendments to principal

sections in the relevant parts of Attachment A hereto.<sup>2</sup>

#### I. Definition of "Dispute" -- Section 64.2

The existence of a "dispute" triggers numerous Chapter 64 requirements. These include the LEC's advising the customer that he or she has the right to file an informal complaint with the Commission (Sec. 64.141);<sup>3</sup> subsequent LEC investigation, resolution and documentation of the "dispute" (Sec. 64.142); and inclusion in the "disputes" required to be tracked and reported to

---

<sup>2</sup>Existing and proposed amendatory language to Chapter 64 sections reflects certain Section 64.2 definition changes (e.g., replacing "Local exchange service" with "Basic service" and "Interexchange service" with "Toll service") that became effective upon the publication of Chapter 64 regulation changes in the Pennsylvania Bulletin on July 22, 1995 at pp. 2887-2893.

<sup>3</sup>Section 64.141 also requires that a written dispute summary be "sent to the customer and the Commission upon request, or if deemed necessary by the local exchange carrier." Although it is clear from the context that the "upon request" and "if deemed necessary" qualifiers apply to the customer as well as the Commission, the Bureau of Consumer Services has made a contrary interpretation and taken the position that written dispute summaries must be sent to the customer even when the customer has not requested the written summary. Compliance with such an interpretation is administratively cumbersome and costly, duplicative of the oral dispute summary already communicated to the customer, and potentially irritating to customers who have no interest in receiving a written summary. Accordingly, as an offshoot to its proposed changes to the basic "Dispute" definition, the PTA recommends that the Commission also modify Section 64.141(5) to better reflect its clear intent as follows:

"(5) Within 30 days of the registration of the dispute, review findings with the customer in a manner which outlines clearly the results of the investigation and which indicates what action will be necessary for the customer to continue service. The findings shall be included in a written summary [and] which shall be sent to the customer upon the customer's request and/or to the Commission upon the Commission's request, or to either or both if deemed necessary by the local exchange carrier."

the Commission (Sec. 64.201).

Although Section 64.2 defines "Dispute" most fundamentally (and logically, in accordance with the plain meaning of the word) as a "disagreement," the Bureau of Consumer Services (BCS) has relied upon "initial inquiry" language in the definition in taking the position that any inquiry requiring a LEC callback to the customer to answer the inquiry automatically becomes a "dispute" at the end of the customer's call to the LEC. This skewed interpretation has required LECs to comply with the full panoply of "dispute" requirements, including creating an extensive -- and in this case unnecessary -- paper trail, even though there is no disagreement between the LEC and the customer at the end of the customer's call. Even worse, it has caused customer confusion and often customer irritation as well when the customer is advised of the right to file an informal complaint with the Commission even though the customer does not yet have anything to complain about. It has also incorrectly inflated the numbers of "disputes" required to be tracked and reported to the Commission.

The proposed amended Section 64.2 "Dispute" definition clarifies that an inquiry which is resolved to the customer's satisfaction at the conclusion of a callback permitted by the customer will not constitute a "dispute."

The amendment also makes three other substantive changes.

First, it expressly provides that the term "dispute" does not apply to disagreements that arise from matters outside the scope of Chapter 64.

Second, consistent with an interpretation made by the BCS at LEC request, it clarifies that the term "dispute" does not encompass a disagreement arising from the inability of the customer and the LEC to enter into a mutually satisfactory payment agreement.

Third, it also excludes from a "dispute" a disagreement which arises from billing data provided to the LEC by an interexchange carrier (IXC). This exclusion obviates the necessity of LECs' treating customer IXC toll inquiries which must be passed on to IXCs for resolution as "disputes" even though the vast majority of such billing inquiries are resolved to the customer's satisfaction and even though such inquiries do not give rise to "disputes" when they are made directly to the IXC by the customer.<sup>4</sup> It also recognizes that the current competitive reality that customers who are dissatisfied with the resolution of IXC billing inquiries have the option to easily and immediately switch to another IXC. Such a market penalty provides a powerful disincentive to IXCs' causing customer dissatisfaction in the handling of IXC inquiries, and eliminates the need for the protection of Chapter 64 "dispute" regulations.

The PTA proposes that the Section 64.2 "Dispute" definition be amended as set forth in Part I of Attachment A.

---

<sup>4</sup>See In Re Petition of AT&T Communications of Pennsylvania, Inc., Dkt. No. P-880306, Order entered Sept. 23, 1993 (adopting ALJ Schnierle's Jan. 22, 1993 Initial Decision holding that IXC direct billing inquiries do not give rise to "disputes" under the Section 64.2 definition).

## II. Credit and Deposit Standards -- Sections 64.31-64.41

The current regulations governing credit and deposits are unduly complicated, inflexible, cumbersome and costly to administer, and outdated in the present increasingly competitive telecommunications marketplace. They permit customers who do not pay their bills to get and retain telephone service without adequate protections for LECs and customers who do pay their bills. LECs need more flexibility to implement reasonable credit and deposit standards that prevent fraudulent use of the network and avoid uncollectible debt. This flexibility should include giving LECs the ability to determine deposit amounts based upon individual credit determinations. LECs should also have the option, where appropriate, to require applicants or existing customers to make advance payments for toll and/or nonbasic services or to remain within credit limits for such services.

The PTA's suggested amendments substantially rewrite various sections of the credit and deposit regulations to simplify the regulations and give LECs the increased flexibility they need. The key changes, in addition to those noted above, include giving LECs the ability to deny credit to "seriatim subscribers" at the same address who consecutively order service, run up bills and do not pay them, and get their service suspended, only to be replaced by another putative subscriber ordering service at that address (Sec. 64.31). They also include changing the rate of interest which must be paid on customer deposits from 9% to the statutory legal rate of interest in Pennsylvania, consistent with a similar



interest rate change that the Commission proposes to make to its Chapter 56 regulations for electric and gas utility customer deposits.<sup>5</sup>

The amendments also remove the four-year limitation on outstanding prior residential account indebtedness a LEC can require an applicant to pay to get residential service again, and the requirement that the applicant be permitted to pay prior indebtedness in installments (Sec. 64.33). The existing four-year statute of limitations for breach of a tariff or other contract (42 Pa. C.S. §5325) merely gives a debtor a waivable legal defense to a court action to recover such debt. It does not extinguish the debt. LECs, like other Pennsylvania creditors, should not be obligated to give new services to buyers who owe them money. Under the present four-year limitation, terminated customers who know how to "use the system" simply wait until four years expire to reapply for service, knowing the LECs' hands are tied. These include many "seriatim subscribers" who use the four-year limitation to keep the fraudulent service (and resultant LEC bad debt) merry-go-round spinning.

The PTA proposes that the credit and deposit regulations be amended as set forth in Part II of Attachment A.<sup>6</sup>

---

<sup>5</sup>See July 22, 1993 Order in Dkt. No. L-930083 published in Pennsylvania Bulletin, Feb. 19, 1994, pp. 981-83.

<sup>6</sup>As an offshoot to these proposed changes, the PTA also recommends that the Commission correct another existing impediment to efficient new connect contacts between applicants and LECs, specifically, the Section 64.191(a) requirement that LEC service representatives give telephone applicants "a verbal recitation of all available service and equipment options and their prices." The

III. Emergency Provisions/Medical Certifications -- Sections 64.101-64.108 and Appendices A and B

The medical certification provisions are among the Chapter 64 regulations most subject to abuse. Loose certification standards, combined with the inability of LECs to contest bogus certifications in a timely manner, enable delinquent customers to retain telephone service or get service restored merely by getting a pliant family doctor, or a friend or relative who is a physician, to provide a certification. By obtaining repeated new and renewal certifications for chronic or constantly changing medical conditions, or for one family member after another (or for extended family members or friends who allegedly live at the customer's home), abusers of the medical certification regulations subject LECs to another merry-go-round of unsuspendable service and escalating uncollectible debt.

The PTA's proposed amendments significantly tighten the medical certification regulations to prevent system abusers from avoiding payment of overdue, and incurring additional, charges where no true medical emergency exists, to the detriment of the overwhelming majority of customers who pay their bills. While avoiding fraud and other abuse, these changes continue to protect the genuinely needy customers the regulations are designed to

---

tremendous expansion over the past ten years in the numbers of optional services and types of equipment available to applicants has made compliance with the broad oral recitation requirement no longer practicable. The PTA accordingly suggests that the Commission amend Section 64.191(a) to narrow this requirement to "a verbal recitation of all available basic service [and equipment] options and their prices."

protect.

The proposed changes limit the service required to be continued or restored due to a medical certification to basic service, since the proviso to existing Section 64.101 makes clear that the intent of the medical emergency regulations is to provide telephone access to local emergency services (i.e., ambulance or other rescue services reachable by dialing 911 or other local emergency numbers). The changes also permit a medical certification to be given only to a person who presently and normally lives in the customer's dwelling who is suffering from an acute and temporary medical condition which may require immediate access to local emergency services.

To further combat the problem of repeated fraudulent medical certifications, the changes also give LECs the discretion to decline to accept another new medical certification for an occupant of the customer's dwelling unless and until all outstanding telephone service charges are paid. The LECs of course would use this discretion rationally to deter fraud while still accommodating the limited instances of legitimate new medical certifications at the same dwelling.

The PTA proposes that the medical emergency regulations be amended as set forth in Part III of Attachment A.

#### **IV. Informal Complaint Stays/Decisions -- Section 64.153**

Under existing Section 64.153(a), the timely filing of an informal complaint stays the suspension or termination of the complainant's service until the complaint is resolved by the BCS.

This stay provision permits any informal complaint by a delinquent customer, no matter how minor (e.g., contesting a \$.50 toll call), to completely halt service turnoffs designed to spur payment of the customer's outstanding balance (e.g., \$500) and to prevent the customer from running up additional unpaid charges. Accordingly, it incents customers, especially delinquent customers who repeatedly abuse the Chapter 64 system, to file spurious or otherwise meritless informal complaints so that they can retain service for another few months without paying for it.

In addition to increasing uncollectible debt and disadvantaging both LECs and the general body of ratepayers who faithfully pay their bills on time, this broad stay provision also is inconsistent with numerous other Chapter 64 provisions imposing a duty on customers to pay undisputed bills. See, e.g., §§64.61(1), 64.73(a), 64.74(4).

The stay provision should be changed so that it does not delay suspension or termination action based on undisputed debt of the customer. That is, the stay should be limited to halting only adverse action based on the customer's nonpayment of the amount disputed in the informal complaint (the \$.50 toll call in the above example).

Section 64.153(b) requires the BCS to generate a written report on every one of the thousands of informal complaints it processes annually, and therein set forth its findings and a decision. This written report obligation, combined with limited BCS staff resources and the absence of any firm deadline on BCS

informal complaint decisions, routinely causes delays in the issuance of such decisions, to the detriment of both customers and LECs.

This subsection should be modified to permit the BCS to resolve informal complaints orally whenever practicable, avoiding the time and cost of unnecessary paperwork, and to require BCS decisions to be made within 30 days of the BCS's receipt of LEC data pertinent to the informal complaint.

The PTA proposes that Sections 64.153(a) and (b) be amended as set forth in Part IV of Attachment A.

#### **V. Payment Agreements and Suspensions -- Section 64.74**

Section 64.74 encourages delinquent customers and LECs to avoid service suspensions by entering into payment agreements permitting the customer to pay off the arrearage in installments. While such payment agreements, if kept by the customer, are plainly preferable to service suspensions, they also provide yet another vehicle for customers who cannot or will not pay their bills to retain service while continuing to ignore their financial obligations. Breached payment agreements now have to be followed up by another written suspension notice to the customer before suspension can occur.

To deter fraud and other abuse, Section 64.74(b) should be modified to permit LECs to immediately suspend customers who breach payment agreements.

The PTA proposes that Section 64.74(b) be amended as set forth in Part V of Attachment A.

#### **VI. Separate Billing of Services By Type -- Section 64.21**

Section 64.21 currently requires charges for basic, toll and nonbasic services to be billed separately. This billing separation adopted more than ten years ago reflects the traditional telephone service paradigm of local, toll and other services. The resultant "potting" of billed amounts into basic, toll and nonbasic "pots" is a key structural linchpin for Chapter 64 and has a significant effect on areas such as suspensions and terminations.

However, the old paradigm is unlikely to remain viable for much longer as sweeping technical advances; a plethora of new video and other services and increased competition blur traditional service differentiations and spur innovative approaches to packaging services to residential customers. The Commission should give LECs increased flexibility by requiring only that basic service, which is the focus of all Chapter 64 protections, be billed separately. This will permit LECs to make individual determinations as to how they wish to bill and "pot" other services, and will likely enable many customers to enjoy the benefits of unique service packages tailored to meet their needs.

The PTA proposes that Section 64.21 be amended as set forth in Part VI of Attachment A.

#### **VII. Handling of Service Complaints -- Sections 63.15 and 63.21**

Every telephone service complaint which is referred by the Commission to LECs for investigation under Section 63.15(a) currently generates a substantial amount of paperwork at and between the Commission and the LEC. This paperwork collectively

creates an undue administrative burden for the Commission and the LECs. Section 63.15(a) should be changed to permit and indeed encourage the Commission Staff and LECs to handle and resolve service complaints orally whenever it is practicable to do so. Such oral complaint processing, which is already done by Commissions and LECs in other jurisdictions (e.g., District of Columbia, Virginia, Ohio), will both reduce paperwork and facilitate faster resolution of complaints.

Section 63.21(e) sets forth a detailed and cumbersome procedure LECs must follow in investigating written complaints that a LEC telephone directory listing is misleading, deceptive or confusing. However, there is no basis for treating this type of complaint differently from other directory complaints or other telephone service-related complaints generally. This subsection should be deleted as duplicative of Section 63.15.

The PTA proposes that Sections 63.15(a) and 63.21(e) be amended as set forth in Part VII of Attachment A.

#### VIII. Accounts and Records -- Sections 63.31-63.36

The term "telephone public utility" used throughout this subchapter C of Chapter 63 should be modified to "public utility," the term which is defined to mean a telecommunications public utility in the Section 63.1 definitions and which is used throughout other subchapters of Chapter 63. Aside from achieving internal consistency, this change also will clarify that the accounts and records regulations, like other Chapter 63 provisions, apply to all telecommunications public utilities regulated by the

Commission.

In addition, in Section 63.31, the Commission should reduce the number of classifications of telecommunications public utilities for accounting and reporting purposes from four (Classes A through D) to two (Classes A and B). It should also modify the class determinant from solely annual operating revenues to both operating revenues and numbers of access lines. Class A utilities should be those having 50,000 or more access lines and annual revenues exceeding \$20 million. Smaller utilities should be Class B utilities.<sup>7</sup> This revised classification scheme is consistent with Class A parameters established in another recent Commission rulemaking<sup>8</sup> and Chapter 30 filing requirements.<sup>9</sup>

Finally, a number of minor changes should be made to the accounts and records regulations to update or eliminate various obsolete account references and outdated requirements.

The PTA proposes that Sections 63.31-63.36 be amended as set forth in Part VIII of Attachment A.

#### **IX. Extended Area Service -- Sections 63.71-63.77**

The Extended Area Service (EAS) regulations now require LECs to obtain and include pertinent interexchange carrier (IXC)

---

<sup>7</sup>The PTA also suggests that classification criteria measurements be made as of public utility financial year ends, and that the twin Class A criteria must be met for the three most recent financial years for a utility initially to be classified, and thereafter to remain, a Class A utility.

<sup>8</sup>In Re Public Utility Depreciation Practices and Capital Planning, Dkt. No. L-920062, Order entered May 5, 1995.

<sup>9</sup>In Re Implementation of Chapter 30 of Public Utility Code, Dkt. No. M-930441, Order entered August 27, 1993.



interLATA toll traffic data as part of mandated biennial interexchange toll traffic usage studies. Many IXC's do not want to disclose this data to LECs. Many also have resisted and delayed production of this data as unduly burdensome. The IXC's recalcitrance has created difficulties in the LECs' preparation of timely and complete biennial studies.

The Commission should address this problem by requiring all IXC traffic data required for biennial studies to be submitted directly to the Commission by the IXC's. This will take the LECs "out of the loop" on transmitting this IXC data and on dealing with IXC's which balk at the burden of producing the data, and will provide complete and timely study information to the Commission. This in turn will enable the Commission to determine and advise IXC's/LEC's of any exchanges which qualify for interLATA optional calling plans or interLATA EAS.<sup>10</sup>

The criteria for Commission evaluation of EAS complaints also should be clarified to ensure that all pertinent inputs are considered by administrative law judges and the Commission. These modifications will also help prevent divergent decisions based on similar facts which have sometimes resulted from different interpretations of the existing criteria.

To implement these changes, the PTA proposes that the EAS

---

<sup>10</sup>If the Commission authorizes intraLATA presubscription permitting a customer to select the carrier which will carry the customer's intraLATA toll calls, the Commission should consider expanding the scope of IXC traffic data required to be provided to the Commission as part of the biennial studies to include intraLATA as well as interLATA toll data.